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FYI  
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# Expungement denied polluter firm

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A Superior Court judge in New Brunswick has denied a request to expunge charges against an Old Bridge chemical company named in indictments for allegedly discharging hazardous waste and tampering with monitoring wells.

In a 12-page decision dated Feb. 2, Judge Martin Kravarik ruled that the records of indictment against the CPS Chemical Co. Inc. would be relevant to a separate civil case. He also maintained that expunging records is intended to rehabilitate "the natural person and not artificial entities such as corporations and business associations."

CPS was seeking to expunge records of a December 1983 indictment relating to the discharge of hazardous waste in a sewer line and a June 1986 indictment charging company officials tampered with a monitoring well.

Four company officials also were named in the original indictments. However, records of the indictments against them were expunged in 1986.

Attorneys for the state Department of Environmental Protection (DEP) agreed to dismiss the indictments after the company pledged to establish a \$250,000 trust fund, to be controlled by the Middlesex County Sewage Authority, for sewer line reparations.

James Plaisted, a Roseland lawyer representing CPS, had argued for expunging all the indictments because he said the court records "handicapped" the company's business activities. He said when CPS competes for new business, or responds to inquiries from regulatory agencies or financial institutions, it must disclose the existence of these past charges.

In opposing the company's request, state Deputy Attorney General Stephen Monson, who represented the DEP, argued that expunging the records would affect a separate case in which CPS and a neighboring company, Madison Industries, are defendants. Madison Industries, in still another case, was indicted by a grand jury and pleaded guilty to a charge related to the disposal of hazardous waste.

In a lawsuit filed by the City of Perth Amboy and later joined by the DEP, the two companies are accused of polluting and damaging part of a watershed owned by Perth Amboy. Another Superior Court judge recently approved a plan for cleanup of the watershed.

Attorneys for the DEP argued that information generated in the investigation for the indictments would be useful in the lawsuit and that expunging the indictments would make it difficult for lawyers to obtain that information.

In his decision, Judge Kravarik said, "The expungement of any corporation's records could facilitate long-term delays in determining the identity of potentially responsible parties and ultimately the cleanup of hazardous waste sites and other properties contaminated through improper disposal practices."

"In this case," he said, "the state has proven by far more than a preponderance of the credible evidence that, considering the totality of the circumstances, the petition of CPS must be denied to protect the public record."

Plaisted said he would review the decision with CPS officials to decide "what steps to take."

Monson could not be reached for comment.

